UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,654	11/18/2003	Koji Takekoshi	03500.017720.	2523

5514 7590 03/02/2010

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

EXAMINER	
CHU, RANDOLPH I	
ART UNIT	**PAPER NUMBER**
2624	
MAIL DATE	**DELIVERY MODE**
03/02/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/714,654	TAKEKOSHI ET AL.	
	Examiner	Art Unit	
	RANDOLPH CHU	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12/15/2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,5,6,9-12,15 and 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-3, 5, 6, 9-12, 15 and 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/1/2010*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

In response to applicant's amendment received on 12/15/2009, all requested changes to the claims have been entered.

Response to Remark

Applicant amended the limitation "image reading report" to "diagnosis report.

But in the disclose of Marshall et al, the review completion can be interpreted as completes reviewing and analyze the images and annotate them (col. 4 lines 1-7).

Therefore, Marshall et al. teaches process a control of judging presence or absence of an inputting of a diagnosis report corresponding to the medical image displayed on said monitor, displaying an image for inputting an diagnosis reports corresponding to the medical image displayed on the monitor in case where the input of the diagnosis reports is judged absent, and restricting a change of displaying the medical image, in a case where the inputting of the diagnosis report is judged absent.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitation "the diagnosis report" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 7,174,515 to Marshall et al.

With respect to claim 1, Marshall et al. teaches

a monitor for displaying a medical image (Fig 2, ref. label 270, Fig. 7 ref . label 775);

a processor configured to process a control of judging presence or absence of an inputting of a diagnosis report corresponding to the medical image displayed on said monitor, displaying an image for inputting an diagnosis reports corresponding to the medical image displayed on the monitor in case where the input of the diagnosis reports is judged absent, and restricting a change of displaying the medical image, in a case where the inputting of the diagnosis report is judged absent (Fig 2, ref. label 210, Fig. 7, ref. label 775 and 780, col. 15 lines 18-28, col. 4 lines 1-7, review completion can be interpreted as review and analyze the image and annotation is completed) and

an input device for inputting an diagnosis report (Fig. 1 ref. lablel 160, remote viewing station, col. 4 lines 1-7, review completion that is indicated by the user) corresponding to the medical image displayed on the monitor on the basis of a user instruction (Fig 2, ref. label 270, col. 15 lines 18-28).

With respect to claim 2, Marshall et al. teaches judges presence or absence of the diagnosis report corresponding to the medical image displayed on the monitor when the medical image displayed on the monitor is changed (Fig 2, ref. label 210, Fig. 7, ref. label 780, col. 15 lines 18-28, col. 4 lines 1-7, review completion can be interpreted as review and analyze the image and annotation is completed).

With respect to claim 9, please refer to rejection for claim 1.

With respect to claim 10, please refer to rejection for claim 2.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 3 and 12 are rejected under 35 USC 103(a) as being unpatentable over Marshall et al. (US Patent 7,174,515) in view of Thirsk (US 2002/0099569).

With respect to claim 3, With respect to claim 5, Marshall et al. teaches all the limitations of claim 1 as applied above from which claim 3 respectively depend.

Marshall et al. does not teach processor requests the input of an diagnosis report, in case the diagnosis report is judged absent by judging means.

Thirsk teaches requesting reveiw of an diagnosis report, in case the diagnosis report need by certain condition. [0034].

At the time of the invention it would have been obvious to a person of ordinary skill in the art to request reveiw of an diagnosis report, in case the diagnosis report need by certain condition in the system of Marshall et al.

The suggestion/motivation for doing so would have been that to make sure all images are completely diagnosed by request diagnosis report.

Therefore, it would have been obvious to combine Thirsk with Marshall et al. to obtain the invention as specified in claim 3.

With respect to claim 12, please refer to rejection for claim 3.

5. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Marshall et al. (US Patent 7,174,515) and Thirsk (US 2002/0099569) in further view of Taniguchi et al. (2003/0055317).

With respect to claim 5, Thirsk and Marshall et al. teach all the limitations of claim 3 as applied above from which claim 5 respectively depend.

Thirsk and Marshall et al. do not teach expressly that measures a time elapsing from the display of the medical image on the monitor and judges presence or absence of an diagnosis report corresponding to the displayed medical image when the measured time exceeds a predetermined time.

Taniguchi et al. teaches determining condition of displayed image based one time elapse and predetermined time (para. [0707]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to determining condition of displayed image based one time elapse and predetermined time in the system of Thirsk and Marshall et al.

The suggestion/motivation for doing so would have been that predetermined time can be set so that system can take next action.

Therefore, it would have been obvious to combine Taniguchi et al. with Thirsk and Marshall et al. to obtain the invention as specified in claim 5.

6. Claims 6, 15 and 18 are rejected under 35 USC 103(a) as being unpatentable over Marshall et al. (US Patent 7,174,515) in view of Jajubowski et al. (US 2004/0062421).

With respect to claim 6, Marshall et al. teach,

a monitor for displaying a medical image (Fig 2, ref. label 270, Fig. 7 ref . label 775);

a processor configured to process a control of judging presence or absence of an inputting of the diagnosis report corresponding to the medical image to display and image for inputting an diagnosis report corresponding to the medical image displayed on the monitor in case where the input of the diagnosis report is judged absent, (Fig 2, ref. label 210, Fig. 7, ref. label 775 and 780, col. 15 lines 18-28, col. 4 lines 1-7, review completion can be interpreted as review and analyze the image and annotation is completed)

an input device for inputting an diagnosis report (review completion that is indicated by the user) corresponding to the medical image displayed on the monitor on the basis of a user instruction (Fig 2, ref. label 270, col. 15 lines 18-28);

Marshall et al. does not teach input an diagnosis report which indicates absence of observation instead of an diagnosis report input by the input device or in case a predetermined time is elapsed.

Jajubowski et al. teach generating an report which is set a warning flag, in case a predetermined time is elapse (para [0051]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to generate diagnosis report, in case a predetermined time is elapse in the system of Marshall et al.

The suggestion/motivation for doing so would have been that to generate default report when unexpectedly long time elapes which means no report from user.

Therefore, it would have been obvious to combine Jajubowski et al. with Marshall et al. to obtain the invention as specified in claim 6.

With respect to claim 15, please refer to rejection for claim 6.

With respect to claim 18, Marshall et al. teaches the diagnosis report inputted by the inputting step includes display time (col. 15 lines 18-28).

7. Claim 11 is rejected under 35 USC 103(a) as being unpatentable over Marshall et al. (US Patent 7,174,515) in view of Taniguchi et al. (2003/0055317).

Marshall et al.teach all the limitations of claim 9 as applied above from which claim 11 respectively depend.

Marshall et al. does not teach expressly that measures a time elapsing from the display of the medical image on the monitor and judges presence or absence of an diagnosis report corresponding to the displayed medical image when the measured time exceeds a predetermined time.

Taniguchi et al. teaches determining condition of displayed image based one time elapse and predetermined time (para. [0707]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to determining condition of displayed image based one time elapse and predetermined time in the system of Marshall et al.

The suggestion/motivation for doing so would have been that predetermined time can be set so that system can take next action.

Therefore, it would have been obvious to combine Taniguchi et al. with Marshall et al.to obtain the invention as specified in claim 11.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RANDOLPH CHU whose telephone number is (571)270-1145. The examiner can normally be reached on Monday to Thursday from 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vikkram Bali can be reached on 571-272-7415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RIC/

/Anand Bhatnagar/
Primary Examiner, Art Unit 2624
February 24, 2010